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February 28, 2017

VIA ECF

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408
Email: bernstein.chambers@nysb.uscourts.gov

Re: *Korea Exchange Bank, individually and as Trustee for Korea Global All Asset Trust I-1, and as Trustee for Tams Rainbow Trust III, and Korea Investment Trust Management Company, Adv. Pro. No. 11-02572 (SMB)*

Dear Judge Bernstein:

We are counsel to Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC and the estate of Bernard L. Madoff. We write regarding this Court’s November 22, 2016, Memorandum Decision Regarding Claims to Recovery Foreign Subsequent Transfers (the “Memorandum Decision”), directing dismissal of all of the Trustee’s claims against defendants Korea Exchange Bank and Korea Investment Trust Management Company (“KITMC”). *See Securities Investor Protection Corp. v. Bernard L. Madoff Investment Secs. LLC (In re Madoff)*, No. 08-01789 (SMB), ECF No. 14495.

On January 30, 2017, this Court entered the Final Order Granting Motion to Dismiss Complaint as to KITMC (the “KITMC Order”). *Picard v. Korea Exchange Bank*, Adv. Pro. No. 11-02572, ECF No. 110.¹ The KITMC Order settles the Memorandum Decision solely with respect to KITMC. As of the date of this letter, this Court has not yet entered the proposed order settling the Memorandum Decision as to defendant Korea Exchange Bank (the “Pending KEB Order”).

On February 8, 2017, the Trustee filed on presentment a Motion for Entry of an Order Pursuant to Federal Rule of Bankruptcy Procedure 8002(d) For Extension of Time to File Notice

¹ ECF No. 110 corrects the prior filing of the Final Order Granting Motion to Dismiss Complaint to include the Memorandum Decision as Exhibit A to the order.

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of Appeal (the “Motion”) and proposed order annexed thereto. On February 10, 2017, the Court granted the Trustee’s Motion extending the time for the Trustee to file a notice of appeal from the KITMC Order to the later of: (i) twenty-one days after the time prescribed by the Federal Rules of Bankruptcy Procedure, which would have otherwise expired on February 13, 2017; or (ii) fourteen days after the date of entry of the Court’s order granting the Trustee’s Motion. *See id.* at ECF No. 113.

Pursuant to Federal Rule of Bankruptcy Procedure 8002(d), the Trustee cannot seek an additional extension of time to file a notice of appeal. Accordingly, the Trustee must file a notice of appeal from the KITMC Order by no later than **March 6, 2017**.

Without entry of the Pending KEB Order, the KITMC Order is not a final judgment from which the Trustee can appeal as of right, because without entry of the Pending KEB Order, less than all claims against all parties have been dismissed.

The Trustee and defendants Korea Exchange Bank and KITMC (collectively, “the Parties”) hereby request this court enter the Pending KEB Order prior to March 6, 2017, thereby allowing the Trustee to file a single notice of appeal in this adversary proceeding before the expiration of the extended time period to appeal the KITMC Order. Alternatively, should the Court have any questions or concerns, the Parties jointly request a conference with the Court prior to March 6, 2017.

Please let us know if the Court has any questions or concerns.

Respectfully submitted,

/s/ Torello H. Calvani

Torello H. Calvani
Partner

cc: Richard A. Cirillo, Esq.
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